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Attorneys for Defendants (Additional Counsel on Signature Page)

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

CITY OF SPOKANE, a municipal
corporation, located in the County of
Spokane, State of Washington,

Plaintiff,

v.

MONSANTO COMPANY, SOLUTIA
INC., and PHARMACIA
CORPORATION, and DOES 1 - 100,

Defendants.

Case No. 15-cv-00201-SMJ

**Declaration of Melissa Nott Davis
Re: Defendants' Statement of Material
Facts Not in Dispute**

Hearing: March 11, 2020
Richland
With Oral Argument

1 Melissa Nott Davis declares and states under penalty of perjury:

2 1. I am over the age of 18 and competent to be a witness herein. I am an
3 attorney for Defendants Pharmacia LLC, Monsanto Company, and Solutia Inc.
4 (collectively, “Defendants” or “Monsanto”) in this matter. Except where indicated
5 otherwise, I make this declaration based on my own personal knowledge and the
6 books and records of my firm Shook, Hardy & Bacon L.L.P.

7 2. Attached as **Exhibit 1** are true and correct copies of pages 21, 23-31,
8 33-36, 38-43, 47-51, 54, 57, 62, 65, 80-82, 84, 86-89, 96-97, 100-103, 105-106, 115,
9 127-128, 132-133, 136, 138-140, 149-150, 163, 169, 191, 193-194, 196, 199-200,
10 204-205, 214-215, 220-222, 224, 228-229, 233-235, 252, 264-266, 271-273, 277-
11 278, 280-283, 289, 296-298, 300-301, 304, 306, 310, 322-323, 335-337 of the
12 deposition testimony of Lars Hendron, taken June 7, 2019 in Spokane, Washington
13 (“Hendron Dep.”).

14 3. Attached as **Exhibit 2** are true and correct copies of pages 26, 32-33,
15 36-39, 42-43, 58-65, 74-75, 82, 87-92, 98, 100-102, 104, 107-108, 114-115, 125-
16 127, 131-134, 140-142, 156-157, 171, 173, 175-179, 185-187, 202-203, 215-224,
17 228-231, 233, 253-254, 260, 263, 271-272 of the deposition testimony of Marcia
18 Davis, taken September 10-11, 2019 in Spokane, Washington (“Davis Dep.”).

19 4. Attached as **Exhibit 3** are true and correct copies of pages 17-18, 21,
20 24-31, 33, 34-35, 40-42, 44-46, 51-52, 55-56, 59-62, 68-69, 73-81 of the deposition
21 testimony of Michael Coster, taken September 17, 2019 in Spokane, Washington
22 (“Coster Dep.”).

1 5. Attached as **Exhibit 4** are true and correct copies of pages 52-53, 55,
2 57-60, 61-62, 63-64, 66, 67, 69-70, 71-73, 114 of the deposition testimony of Scott
3 K. Windsor, taken September 13, 2019 in Spokane, Washington (“Windsor Dep.”).

4 6. Attached as **Exhibit 5** are true and correct copies of pages 13-16, 63,
5 68-69, 152, 163-164, 177, 337-338, 381, 582-585, 591-592, 594-595, 730-732, 910-
6 911, 916, 920-921, 923, 928-929, 932-933 of the deposition testimony of Marlene
7 Feist, taken July 16-17 and September 16-17, 2019 in Spokane, Washington (“Feist
8 Dep.”).

9 7. Attached as **Exhibit 6** are true and correct copies of pages 508-509 of
10 the deposition testimony of Robert Kaley, taken January 7-9, 2020 in St. Louis,
11 Missouri (“Kaley Dep.”).

12 8. Attached as **Exhibit 7** are true and correct copies of pages 32, 35-36,
13 81-83, 88-89, 92-105, 116-118, 123-129, 146, 148, 150-152 of the deposition
14 testimony of Joel Bowdan III, taken November 14, 2019 in San Diego, California
15 (“Bowdan Dep.”).

16 9. Attached as **Exhibit 8** are true and correct copies of pages 27, 79, 86-
17 87, 102-103, 121-123 of the deposition testimony of David Carpenter, taken
18 December 12, 2019 in New York, New York (“Carpenter Dep.”).

19 10. Attached as **Exhibit 9** are true and correct copies of pages 17-18, 45,
20 102-104, 111-112, 158-159 of the deposition testimony of Kevin Coghlan, taken
21 October 30, 2019 in Newton, Massachusetts (“Coghlan Dep.”).

22 11. Attached as **Exhibit 10** are true and correct copies of pages 67-69, 91-
23 93, 123-125, 193, 202, 301-302 of the deposition testimony of Richard
24

1 DeGrandchamp, taken November 19, 2019 in Denver, Colorado (“DeGrandchamp
2 Dep.”).

3 12. Attached as **Exhibit 11** are true and correct copies of pages 11-13, 22-
4 23 of the deposition testimony of David Dilks, taken January 23, 2020 in Ann Arbor,
5 Michigan (“Dilks Dep.”).

6 13. Attached as **Exhibit 12** are true and correct copies of page 122 of the
7 deposition testimony of Jack Matson, taken September 9, 2016 in the matter
8 captioned *Town of Westport, et al., v. Monsanto Company, et al.*, Case No. 1:14-cv-
9 12041 (DJC) in the US District Court for the District of Massachusetts in State
10 College, Pennsylvania (“Matson Westport Dep.”).

11 14. Attached as **Exhibit 13** are true and correct copies of pages 262-264 of
12 the deposition testimony of Jack Matson, taken July 12, 2019 in the matter captioned
13 *San Diego Unified Port District, et al. v. Monsanto Company, et al.*, Case No. 3:15-
14 cv-00578-WQH-AGS in the US District Court for the Southern District of California
15 in State College, Pennsylvania (“Matson San Diego Dep.”).

16 15. Attached as **Exhibit 14** are true and correct copies of pages 75-77, 112-
17 113 of the deposition testimony of J. Keith Nelson, taken June 28, 2019 in the matter
18 captioned *San Diego Unified Port District, et al. v. Monsanto Company, et al.*, Case
19 No. 3:15-cv-00578-WQH-AGS in the US District Court for the Southern District of
20 California in Schenectady, New York (“Nelson San Diego Dep.”).

21 16. Attached as **Exhibit 15** are true and correct copies of pages 10-12, 14-
22 16, 19, 21-22 of the deposition testimony of James Olson, taken November 13, 2019
23 in Buffalo, New York (“Olson Dep.”).

1 17. Attached as **Exhibit 16** are true and correct copies of pages 55-56, 121-
2 122, 133, 137, 143, 155, 159, 182-183, 225, 228-231, 234-235, 243-245 of the
3 deposition testimony of James Olson, taken August 24, 2016 in the matter captioned
4 *Town of Westport, et al., v. Monsanto Company, et al.*, Case No. 1:14-cv-12041
5 (DJC) in the US District Court for the District of Massachusetts in Williamsville,
6 New York (“Olson Westport Dep.”).

7 18. Attached as **Exhibit 17** are true and correct copies of pages 13-18, 36,
8 38, 43, 50-51, 57-63, 65-68, 70-71, 258-260 of the deposition testimony of Lisa
9 Rodenburg, taken December 18, 2019 in Philadelphia, Pennsylvania (“Rodenburg
10 Dep.”).

11 19. Attached as **Exhibit 18** are true and correct copies of pages 18-19, 24,
12 26, 28-34, 54-56 of the deposition testimony of Lisa Rodenburg, taken June 14, 2019
13 in the matter captioned *San Diego Unified Port District, et al. v. Monsanto*
14 *Company, et al.*, Case No. 3:15-cv-00578-WQH-AGS in the US District Court for
15 the Southern District of California in Parsippany, New Jersey (“Rodenburg San
16 Diego Dep.”).

17 20. Attached as **Exhibit 19** are true and correct copies of pages 65, 162-
18 163 of the deposition testimony of Lisa Rodenburg, taken February 7, 2018 in the
19 matter captioned *City of Hartford, et al., v. Monsanto Company, et al.*, Case No.
20 3:15-cv-01544 (RNC) in the US District Court for the District at Connecticut in
21 Cherry Hill, New Jersey (“Rodenburg Hartford Dep.”).

1 21. Attached as Exhibit 20 are true and correct copies of pages 17, 29, 31-
2 33, 38-40, 45-46, 51, 99-101 of the deposition testimony of David Rosner, taken
3 December 10, 2019 in New York, New York (“Rosner Dep.”).

4 22. Attached as **Exhibit 21** are true and correct copies of pages 76-77 of
5 the deposition testimony of Daniel Schlenk, taken November 13, 2019 in San Diego,
6 California (“Schlenk Dep.”).

7 23. Attached as **Exhibit 22** are true and correct copies of pages 13-18, 28,
8 42, 46-47, 51-52, 52-54, 77-78, 102-103 of the deposition testimony of Michael
9 Trapp, taken January 17, 2020 in San Diego, California (“Trapp Dep.”).

10 24. Attached as **Exhibit 23** is a true and correct copy of the expert report
11 of David O. Carpenter dated August 12, 2019 (“Carpenter Rpt.”).

12 25. Attached as **Exhibit 24** is a true and correct copy of the expert report
13 of Kevin M. Coghlan dated October 11, 2019 (“Coghlan Rpt.”).

14 26. Attached as **Exhibit 25** is a true and correct copy of the expert report
15 of David Dilks dated October 10, 2019 (“Dilks Rpt.”).

16 27. Attached as **Exhibit 26** is a true and correct copy of the expert report
17 of Frank Gobas dated October 10, 2019 (“Gobas Rpt.”).

18 28. Attached as **Exhibit 27** is a true and correct copy of the expert report
19 of Kurt Herman dated November 14, 2019 (“Herman Rpt.”).

20 29. Attached as **Exhibit 28** is a true and correct copy of the expert report
21 of Michael Kavanaugh dated November 15, 2019 (“Kavanaugh Rpt.”).

22 30. Attached as **Exhibit 29** is a true and correct copy of the expert report
23 of Jack Matson dated August 6, 2019 (“Matson Rpt.”).

24

1 31. Attached as **Exhibit 30** is a true and correct copy of the expert report
2 of J. Keith Nelson dated August 12, 2019 (“Nelson Rpt.”).

3 32. Attached as **Exhibit 31** is a true and correct copy of the expert report
4 of James Olson dated October 11, 2019 (“Olson Rpt.”).

5 33. Attached as **Exhibit 32** is a true and correct copy of the expert report
6 of Maureen Reitman dated November 15, 2019 (“Reitman Rpt.”).

7 34. Attached as **Exhibit 33** is a true and correct copy of the expert report
8 of Lisa Rodenburg dated October 11, 2019 (“Rodenburg Rpt.”).

9 35. Attached as **Exhibit 34** is a true and correct copy of NPDES Permit No.
10 WA-002447-3, State of Washington Department of Ecology, issued October 25,
11 1974, bates labeled PCB-SPOKANE-07482525 through 07482563.

12 36. Attached as **Exhibit 35** is a true and correct copy of NPDES Permit No.
13 WA-002447-3, State of Washington Department of Ecology, issued November 1,
14 1980.

15 37. Attached as **Exhibit 36** is a true and correct copy of NPDES Permit No.
16 WA-002447-3, State of Washington Department of Ecology, issued September 30,
17 1986, bates labeled SPOKANE-PRR-0428303 through 0428322.

18 38. Attached as **Exhibit 37** is a true and correct copy of City of Spokane,
19 *RPWRF Public Comments: Draft NPDES Permit and Fact Sheet*, September 12,
20 2016, bates labeled PCB-SPOKANE-01199785 through 01199790.

21 39. Attached as **Exhibit 38** is a true and correct copy of NPDES Permit No.
22 WA-002447-3, State of Washington Department of Ecology, effective April 1, 2000.

1 40. Attached as **Exhibit 39** is a true and correct copy of NPDES Permit No.
2 WA-002447-3, State of Washington Department of Ecology, effective July 1, 2011.

3 41. Attached as **Exhibit 40** is a true and correct copy of MS4 Permit, State
4 of Washington Department of Ecology, effective February 16, 2007, bates labeled
5 SPOKANE-PRR-0000836 through 0000884.

6 42. Attached as **Exhibit 41** is a true and correct copy of MS4 Permit, State
7 of Washington Department of Ecology, effective September 1, 2012.

8 43. Attached as **Exhibit 42** is a true and correct copy of MS4 Permit, State
9 of Washington Department of Ecology, effective August 1, 2014, bates labeled
10 SPOKANE-PRR-0049922 through 0049983 and PCB-SPOKANE-04281228
11 through 04281237.

12 44. Attached as **Exhibit 43** is a true and correct copy of MS4 Permit, State
13 of Washington Department of Ecology, effective August 1, 2019.

14 45. Attached as **Exhibit 44** is a true and correct copy of Plaintiff, City of
15 Spokane's, damages model entitled "Master Spreadsheet 2020" dated January 3,
16 2020, bates labeled PCB-SPOKANE-08180230 through PCB-SPOKANE-
17 08180315.

18 46. Attached as **Exhibit 45** is a true and correct copy of a narrative of the
19 Spokane Sewage Treatment plant from 1963 by A.J. Residorph and G.M. Wilson
20 bates labeled PCB-SPOKANE-03311933 through PCB-SPOKANE-03311944.

21 47. Attached as **Exhibit 46** is a true and correct copy of the History of
22 Spokane Sewage Treatment Plant from 1933 to 1939 prepared by the City
23 Engineer's Office and dated January 1945.

24

1 48. Attached as **Exhibit 47** is a true and correct copy of A.D. Butler's
2 Report on Sewage Disposal for Spokane, Washington dated July 1933.

3 49. Attached as **Exhibit 48** is a true and correct copy of Bovay Northwest,
4 Inc.'s "Combined Sewer Overflow Reduction Plan" for the City of Spokane dated
5 January 1994, bates labeled SPOKANE-PRR-2379378 through SPOKANE-PRR-
6 2379641.

7 50. Attached as **Exhibit 49** is a true and correct copy of a 1992 book chapter
8 by Raymond A. Soltero, et al., entitled "The Changing Spokane River Watershed:
9 Actions to Improve and Maintain Water Quality" contained in Robert Naiman's
10 book Watershed Management: Balancing Sustainability and Environmental Change.

11 51. Attached as **Exhibit 50** is a true and correct copy of City of Spokane,
12 Washington's January 2019 Monthly Report from the 2019 CSO Flow Monitoring
13 Project studying Flow, Frequency and Duration of CSO events.

14 52. Attached as **Exhibit 51** is a true and correct copy of the July 14, 2015
15 USEPA plan for the Spokane River entitled "EPA's Plan for Addressing PCBs in
16 the Spokane River" responding to the March 16, 2015 Order issued in *Sierra Club*,
17 *et al. v. McLerran*, No. 11-CV-1759-BJR (March 16, 2015).

18 53. Attached as **Exhibit 52** is a true and correct copy of Washington State,
19 Department of Ecology's "Measureable Progress Definition" dated July 17, 2014.

20 54. Attached as **Exhibit 53** is a true and correct copy of LimnoTech's
21 August 12, 2015 report entitled "Spokane River Regional Toxics Task Force Phase
22 2 Technical Activities Report: Identification of Potential Unmonitored Dry Weather
23 Sources of PCBs to the Spokane River".
24

1 55. Attached as **Exhibit 54** is a true and correct copy of LimnoTech's
2 "2016 Comprehensive Plan to Reduce Polychlorinated Biphenyls (PCBs) in the
3 Spokane River" dated November 16, 2016.

4 56. Attached as **Exhibit 55** is a true and correct copy of LimnoTech's
5 "Spokane River Regional Toxics Task Force 2018 Technical Activities Report:
6 Continued Identification of Potential Unmonitored Dry Weather Sources of PCBs to
7 the Spokane River" dated March 27, 2019.

8 57. Attached as **Exhibit 56** is a true and correct copy of the State of
9 Washington, Department of Ecology's April 2011 report titled "Spokane River PCB
10 Source Assessment 2003-2007".

11 58. Attached as **Exhibit 57** is a true and correct copy of the Health
12 Consultation prepared by The Washington State Department of Health entitled
13 "Potential Cumulative Health Effects Associated with Eating Spokane River Fish"
14 dated August 5, 2011.

15 59. Attached as **Exhibit 58** is a true and correct copy of a City of Spokane
16 Water Quality Improvement Program report entitled "Combined Sewer Overflow
17 Reduction System Wide Alternative Report" dated December 2005 and bates labeled
18 SPOKANE-PRR-3615313 through SPOKANE-PRR-3615451.

19 60. Attached as **Exhibit 59** is a true and correct copy of the Fact Sheet for
20 NPDES Permit WA-002447-3 for the City of Spokane Wastewater Treatment Plant
21 (WWTP) and Spokane County (Pretreatment Program) dated December 22, 1999
22 and revised March 30, 2000.

1 61. Attached as **Exhibit 60** is a true and correct copy of a presentation from
2 September 26, 2018 entitled “University District Stormwater Site Suitability
3 Assessment” given by Marcia Davis, PE, for the City of Spokane and Aimee
4 Navickis-Brasch, PE PhD, for HDR.

5 62. Attached as **Exhibit 61** is a true and correct copy of the USEPA, Final
6 Environmental Impact Statement for the City of Spokane Combined Sewer
7 Overflow Abatement Project from July 1979.

8 63. Attached as **Exhibit 62** is a true and correct copy of a City of Spokane
9 Public Works Department Report entitled “Facilities Planning Report for Sewer
10 Overflow Abatement” from 1977 bates labeled PCB-SPOKANE-00003249 through
11 PCB-SPOKANE-00003366.

12 64. Attached as **Exhibit 63** is a true and correct copy of Esvelt &
13 Saxton/Bovay Engineers, Inc.’s “Spokane Wastewater Study” dated July 1, 1972.

14 65. Attached as **Exhibit 64** is a true and correct copy of an article entitled
15 “Waste Treatment Plant Modified for Increased Solids Loading” by A.J. Reisdorph,
16 Superintendent for the Sewage Treatment Plant, Spokane, Washington published in
17 Public Works in April, 1965.

18 66. Attached as **Exhibit 65** is a true and correct copy of a compilation of
19 CSO Annual Reports for the City of Spokane from 1994 through 2017.

20 67. Attached as **Exhibit 66** is a true and correct copy of the 1952 “Report
21 on Water Pollution Control” for the Spokane River Basin prepared by the Pacific
22 Northwest Drainage Basins Office, Division of Water Pollution Control, Public
23
24

1 Health Service and Federal Security Agency in cooperation with the Idaho
2 Department of Public Health and the Washington Pollution Control Commission.

3 68. Attached as **Exhibit 67** is a true and correct copy of the City of
4 Spokane, Combined Sewer Overflow (CSO) Annual Report from 2015.

5 69. Attached as **Exhibit 68** is a true and correct copy of WAC 173-245-030
6 in effect in 1988.

7 70. Attached as **Exhibit 69** is a true and correct copy of the City of Spokane
8 Combined Sewer Overflow Reduction Plan dated October 17, 1991, bates labeled
9 SPOKANE-PRR-0906172 through SPOKANE-PRR-0906204.

10 71. Attached as **Exhibit 70** is a true and correct copy of the August 10,
11 2001, State of Washington, Department of Ecology Noncompliance Warning to the
12 Spokane Wastewater Management Department, bates labeled PCB-SPOKANE-
13 03306938 through PCB-SPOKANE-03306940.

14 72. Attached as **Exhibit 71** is a true and correct copy of a City of Spokane
15 Water Quality Improvement Program report entitled “Combined Sewer Overflow
16 Reduction System Wide Alternative Report” dated December 2005 and bates labeled
17 SPOKANE-PRR-3615313 through SPOKANE-PRR-3615451.

18 73. Attached as **Exhibit 72** is a true and correct copy of the Notice of Intent
19 to file a Citizen Suit under the Clean Water Act filed in *Sierra Club v. City of*
20 *Spokane*, Case No. CV-08-283-LRS, ECF No. 2, September 12, 2008.

21 74. Attached as **Exhibit 73** is a true and correct copy of the State of
22 Washington, Department of Ecology’s June 30, 2017 Administrative Order issued
23 to the City of Spokane for Riverside Park Water Reclamation Facility, 4401 N.

24

1 Aubrey Parkway, Spokane, Washington 99205, bates labeled PCB-SPOKANE-
2 00695478 through PCB-SPOKANE-00695482.

3 75. Attached as **Exhibit 74** is a true and correct copy of the State of
4 Washington, Department of Ecology's Water Quality Improvement Report entitled
5 "Spokane River and Lake Spokane Dissolved Oxygen Total Maximum Daily Load"
6 with Publication No. 07-10-073 dated February, 2010, bates labeled SPOKANE-
7 PRR-0066111 through SPOKANE-PRR-0066509.

8 76. Attached as **Exhibit 75** is a true and correct copy of the State
9 Environmental Policy Act (SEPA), Environmental Checklist, bates labeled PCB-
10 SPOKANE-00780230 through PCB-SPOKANE-00780261.

11 77. Attached as **Exhibit 76** is a true and correct copy of the City of Spokane
12 December 2014 Integrated Clean Water Plan bates labeled SPOKANE-PRR-
13 0049984 through SPOKANE-PRR-0050265.

14 78. Attached as **Exhibit 77** is a true and correct copy of an Email from Dale
15 Arnold to Mary Verner and others with subject line "RE: DO TMDL Feb 24 Meeting
16 Agenda and Materials. Summary of the Meeting by DEA" dated March 9, 2011,
17 bates labeled PCB-SPOKANE-03338968 through PCB-SPOKANE-03338969.

18 79. Attached as **Exhibit 78** is a true and correct copy of an Email from
19 Kelly Irving at CH2M to Marcia Davis and others with subject line "RE: ICWP:
20 Ecology Comments on Schedule and Financing" dated October 10, 2014, bates
21 labeled PCB-SPOKANE-08141709 through PCB-SPOKANE-08141711.

22 80. Attached as **Exhibit 79** is a true and correct copy of the Pall
23 Corporation Micro-Filtration System Operation and Maintenance Manual for the
24

1 City of Spokane Wastewater Management dated August 2017, bates labeled PCB-
2 SPOKANE-08122194 through PCB-SPOKANE-08122333.

3 81. Attached as **Exhibit 80** is a true and correct copy of a letter from Scott
4 Simmons, Director of City of Spokane Public Works to Cheryl A. Niemi with the
5 Department of Ecology regarding “City of Spokane Variance Application – NPDES
6 Permit No. WA-0024447-3” dated April 29, 2019.

7 82. Attached as **Exhibit 81** is a true and correct copy of the January 1976
8 Technical Report from the Metropolitan Spokane Region Water Resources Study by
9 the US Army Corps of Engineers.

10 83. Attached as **Exhibit 82** is a true and correct copy of the March 2004
11 City of Spokane, Stormwater Management Plan, bates labeled SPOKANE-PRR-
12 0897642 through SPOKANE-PRR-0897785.

13 84. Attached as **Exhibit 83** is a true and correct copy of City of Spokane
14 Department of Engineering Services, Design Standards, dated February 2007.

15 85. Attached as **Exhibit 84** is a true and correct copy of the 2019 MS4
16 NPDES Permit issued on July 1, 2019.

17 86. Attached as **Exhibit 85** is a true and correct copy of the 2014 Annual
18 Report for the Adaptive Management Plan for Reducing PCBs in Stormwater
19 Discharges for reporting period May, 2013 to May, 2014 prepared by the City of
20 Spokane, Wastewater Management Department.

21 87. Attached as **Exhibit 86** is a true and correct copy of the Consent Decree
22 entered in *Spokane Riverkeeper v. City of Spokane*, 2:11-cv-00217-LRS, ECF No.
23 3, Aug. 23, 2011.

1 88. Attached as **Exhibit 87** is a true and correct copy of the State of
2 Washington, Department of Ecology, Spokane River and Lake Spokane Dissolved
3 Oxygen Total Maximum Daily Load 2010-2016 Implementation Report, revised
4 November 2018.

5 89. Attached as **Exhibit 88** is a true and correct copy of the Memorandum
6 Order Remanding Matter for Further Consideration issued in *Sierra Club, et al. v.*
7 *McLerran*, No. 11-CV-1759-BJR, ECF No. 120, Mar. 16, 2015.

8 90. Attached as **Exhibit 89** is a true and correct copy of excerpts from a
9 spreadsheet titled EPA 2019, National Spreadsheet of Facilities re PCB Activities,
10 available at
11 [https://www.epa.gov/sites/production/files/201903/national_spreadsheet_of_facilit](https://www.epa.gov/sites/production/files/201903/national_spreadsheet_of_facilities_that_have_notified_of_pcb_activities_3-20-19.xlsx)
12 [ies_that_have_notified_of_pcb_act ivities_3-20-19.xlsx](https://www.epa.gov/sites/production/files/201903/national_spreadsheet_of_facilities_that_have_notified_of_pcb_activities_3-20-19.xlsx)

13 91. Attached as **Exhibit 90** is a true and correct copy of excerpts from a
14 spreadsheet titled EPA 2015, Most Recent EPA Regulated Transformer Data,
15 available at
16 [https://www.epa.gov/sites/production/files/2015-](https://www.epa.gov/sites/production/files/2015-10/documents/most_recent_registrations_excel_document.xls_.pdf)
17 [10/documents/most_recent_registrations_excel_document.xls_.pdf](https://www.epa.gov/sites/production/files/2015-10/documents/most_recent_registrations_excel_document.xls_.pdf)

18 92. Attached as **Exhibit 91** is a true and correct copy of Plaintiff's Third
19 Supplement to Plaintiff's Second Amended Objections and Responses to Pharmacia
20 LLC's First Amended Special Interrogatories dated July 2, 2019.

21 93. Attached as **Exhibit 92** is a true and correct copy of the June 20, 1990
22 Consent Agreement and Final Order issued by USEPA in *The Matter of: City of*
23
24

1 *Spokane Advanced Wastewater Treatment Plant*, Dkt. No. 1090-04-28-2615, bates
2 labeled SPOKANE-PRR-0417423 through SPOKANE-PRR-0417430.

3 94. Attached as **Exhibit 93** is a true and correct copy of the August 2,
4 2001 Draft Report entitled “Report on Polychlorinated Biphenyls (PCB) Within
5 Departments of the City of Spokane” by Bill Rickard, Environmental Analyst,
6 bates labeled SPOKANE-PRR-0425760 through SPOKANE-PRR-0425791.

7 95. Attached as **Exhibit 94** is a true and correct copy of *Esvelt*
8 *Environmental Engineering Memo*, Larry E. Esvelt (Dec. 20, 2001), bates labeled
9 LLSWD_SPO_TP00000212 through LLSWD_SPO_TP00000215.

10 96. Attached as **Exhibit 95** is a true and correct copy of *Spokane River PCB*
11 *TMDL Stormwater Loading Analysis – Final Technical Report* (Dec. 2007), bates
12 labeled SPOKANE-PRR-0707402 through SPOKANE-PRR-0707453.

13 97. Attached as **Exhibit 96** is a true and correct copy of *Spokane River PCB*
14 *Source Assessment Report Email*, Erin Carroll (June 23, 2011), bates labeled
15 SPOKANE-PRR-0440447.

16 98. Attached as **Exhibit 97** is a true and correct copy of *Washington State*
17 *Water Quality Standards: Human health criteria and implementation tools –*
18 *overview of key decisions in rule amendment*, Washington Department of Ecology
19 (Aug. 2016).

20 99. Attached as **Exhibit 98** is a true and correct copy of a David A. Condon
21 letter to US EPA dated Feb. 7, 2017.

22 100. Attached as **Exhibit 99** is a true and correct copy of US EPA letter to
23 Washington Dept. of Ecology dated May 10, 2019.

24

1 101. Attached as **Exhibit 100** is a true and correct copy of Spreadsheet:
2 Dilks Table 1, David Dilks.

3 102. Attached as **Exhibit 101** is a true and correct copy of *PCBs still found*
4 *in products – and river*, The Spokesman-Review (Aug. 16, 2011).

5 103. Attached as **Exhibit 102** is a true and correct copy of *Lake Spokane*
6 *carp removal project wraps up gillnets for season*, The Spokesman-Review, dated
7 May 28, 2017.

8 104. Attached as **Exhibit 103** is a true and correct copy of *Removing carp*
9 *from Lake Spokane mixes science, grunt work*, The Spokesman-Review, dated May
10 19, 2017.

11 105. Attached as **Exhibit 104** is a true and correct copy of Washington State
12 Dept. of Health, *Evaluation of PCBs, PBDEs and Selected Metals in the Spokane*
13 *River, Including Long Lake Spokane, Washington*, dated Aug. 28, 2007.

14 106. Attached as **Exhibit 105** is a true and correct copy of Washington
15 Department of Ecology, *Washington State Water Quality Assessment*, Listing ID
16 8201, available at <https://apps.ecology.wa.gov/approvedwqa/ApprovedSearch.aspx>.

17 107. Attached as **Exhibit 106** is a true and correct copy of *Guidance for*
18 *Assessing Chemical Contaminant Data for Use in Fish Advisories*, US EPA, dated
19 Nov. 2000.

20 108. Attached as **Exhibit 107** is a true and correct copy of *Riverfront Park*
21 *Master Plan* (Fall 2014), bates labeled SPO_DEFEXP-WD-00004008 through
22 SPO_DEFEXP-WD-00004155.

1 109. Attached as **Exhibit 108** is a true and correct copy of an article from
2 The Spokane River Edited by, Paul Lindholdt, University of Washington Press
3 (2018).

4 110. Attached as **Exhibit 109** is a true and correct copy of Water Quality
5 Combined Financial Assistance Agreement No. WQC-2018-Spokane-00018, bates
6 labeled SPOKANE-PRR-5057771 through SPOKANE-PRR-5057831

7 111. Attached as **Exhibit 110** is a true and correct copy of Minor Contract
8 Cheat Sheet, Marcia Davis, dated Sept. 1, 2009, bates labeled SPOKANE-PRR-
9 4552247.

10 112. Attached as **Exhibit 111** is a true and correct copy of Water Quality
11 Combined Financial Assistance General Information, WQC-2017-Spokane-00154.

12 113. Attached as **Exhibit 112** is a true and correct copy of Water Quality
13 Combined Financial Assistance Agreement No. WQC-2017-Spokane-00014, bates
14 labeled SPOKANE-PRR-5056560 through SPOKANE-PRR-5056594.

15 114. Attached as **Exhibit 113** is a true and correct copy of Water Quality
16 Combined Financial Assistance Agreement No. WQC-2019-Spokane-00154, bates
17 labeled SPOKANE-PRR-5033693 through SPOKANE-PRR-5033733.

18 115. Attached as **Exhibit 114** is a true and correct copy of Water and
19 Wastewater System Revenue Bonds, 2014 (Green Bonds) Official Statement Dated
20 Nov. 18, 2014, City of Spokane.

21 116. Attached as **Exhibit 115** is a true and correct copy of the
22 Interdepartmental Task Force on PCBs report entitled Polychlorinated Biphenyls
23 and the Environment, COM-72-10419, dated May 1972.

24

1 117. Attached as **Exhibit 116** is a true and correct copy of the article
2 Erickson, “Applications of polychlorinated biphenyls”, 18 Environ Sci Pollut Res.
3 (2011) 18:135-151.

4 118. Attached as **Exhibit 117** is a true and correct copy of an Email from
5 Brett Land to David Haase dated October 16, 2019 with subject line “RE: J. Keith
6 Nelson; Jack Matson; Spokane Depositions”.

7 119. Attached as **Exhibit 118** is a true and correct copy of the International
8 Agency for Research on Cancer monograph “Polychlorinated and Polybrominated
9 Biphenyls”, Vol. 107 (2016).

10 120. Attached as **Exhibit 119** is a true and correct copy of the article,
11 Breivik et al., “Towards a global historical emission inventory for selected PCB
12 congeners—a mass balance approach”, 290 THE SCIENCE OF THE TOTAL
13 ENVIRONMENT (2002) 181-198.

14 121. Attached as **Exhibit 120** is a true and correct copy of “The PCB Story”
15 by S. Jensen published in Ambio, Vol 1, No. 4 (Aug.1972).

16 122. Attached as **Exhibit 121** is a true and correct copy of a letter dated
17 February 27, 1970 from Monsanto Company to its customers, bates labeled
18 MCL000121 through MCL000166.

19 123. Attached as **Exhibit 122** is a true and correct copy of a letter dated June
20 1, 1970 from Monsanto Company to its customers, bates labeled MCL000213
21 through MCL000223.

1 124. Attached as **Exhibit 123** is a true and correct copy of “The PCB-
2 Pollution Problem, Summary of January 21 and 22, 1970 St. Louis Meeting with
3 General Electric Company”, bates labeled MONS037460 through MONS037461.

4 125. Attached as **Exhibit 124** is a true and correct copy of a Monsanto
5 internal memorandum entitled “The PCB-Environmental problem” dated April 15,
6 1970 and bates labeled GPFOX00034589.

7 126. Attached as **Exhibit 125** is a true and correct copy of letter from Kelsey
8 Gray on behalf of the Spokane River Regional Toxics Task Force to the National
9 Association of Clean Water Agencies dated November 21, 2012 with subject
10 “Toxics Substance Control Act-TSCA, bates labeled SPOKANE-PRR-1610938
11 through SPOKANE-PRR-1610941.

12 127. Attached as **Exhibit 126** is a true and correct copy of the article Hu, D.,
13 Hornbuckle, K.C., Inadvertent polychlorinated biphenyls in commercial paint
14 pigments, 44 ENVIRON. SCI. TECHNOL. 2822 (Nov. 16, 2009).

15 128. Attached as **Exhibit 127** is a true and correct copy of the article, Becky
16 Kramer, *PCBs still found in products – and river*, The Spokesman-Review, Aug. 16,
17 2011.

18 129. Attached as **Exhibit 128** is a true and correct copy of the City of
19 Spokane, Wastewater Management Department’s Report, PCBs in Municipal
20 Products, dated July 21, 2015, bates labeled PCB-SPOKANE-00232079 through
21 PCB-SPOKANE-00232123.

1 130. Attached as **Exhibit 129** is a true and correct copy of the article, Van
2 Caneghem, J., *Destruction and formation of dioxin-like PCBs in dedicated full scale*
3 *waste incinerators*, Chemosphere 94, 42-47, dated Oct. 9, 2014.

4 131. Attached as **Exhibit 130** is a true and correct copy of the article, Daniel
5 Walters, *To Bury or Burn? Will a proposed Ecology rule punish Spokane, despite*
6 *the city using a cleaner way of disposing its trash compared to the rest of the state*,
7 *Inlander*, April 21, 2016.

8 132. Attached as **Exhibit 131** is a true and correct copy of an Email from
9 Adriane Borgias to Jeffrey Bell and others dated November 4, 2014 with subject line
10 “RE: PCB TSCA Reform Coalition Agenda__102814”, bates labeled SPOKANE-
11 PRR-0358341 through SPOKANE-PRR-0358344.

12 133. Attached as **Exhibit 132** is a true and correct copy of the Spokane River
13 Regional Toxics Task Force, 2016 Technical Workshop – Takeaways, bates labeled
14 SPOKANE-PRR-1590813 through SPOKANE-PRR-1590834.

15 134. Attached as **Exhibit 133** is a true and correct copy of the transcript
16 from a webinar presented by Dr. Lisa Rodenburg entitled “PCBs: An Update”
17 dated September 25, 2017.

18 135. Attached as **Exhibit 134** is a true and correct copy of the October 11,
19 1937 Memorandum of L. A. Watt, Bates No. MONS 046543.

20 136. Attached as **Exhibit 135** is a true and correct copy of the October 11,
21 1937 Memorandum of L. A. Watt, Bates No. MONS 046543.

1 137. Attached as **Exhibit 136** is a true and correct copy of the April 1943
2 Monsanto Technical Bulletin No. P-115, Monsanto Chemical Company, "The
3 Aroclors: Physical Properties and Suggested Applications," No. P-115 (Apr. 1943).

4 138. Attached as **Exhibit 137** is a true and correct copy of the October 1955
5 Monsanto Technical Bulletin No. O-130, Monsanto Chemicals Plastics, "An
6 Indirect Aroclor Heater for Unit Chemical Operators."

7 139. Attached as **Exhibit 138** is a true and correct copy of the 1966
8 Monsanto Bulletin, "Aroclor for Capacitors."

9 140. Attached as **Exhibit 139** is a true and correct copy of the February 9,
10 1970 Correspondence from D.A. Olson to Monsanto's Functional Fluids Group
11 Customers regarding: PCBs in marine, aquatic and wildlife environments, including
12 Chemical Week article and list of customers.

13 141. Attached as **Exhibit 140** is a true and correct copy of Monsanto's
14 Technical Bulletin O/PL-306A entitled, "Aroclor Plasticizers," bates labeled
15 0290994-0291008 (PCB-ARCH0298272-0298286).

16 142. Attached as **Exhibit 141** is a true and correct copy of Monsanto's Print
17 Advertisement for its Aroclors, entitled "Genie of a Thousand and One Engineering
18 Feats," Chemical and Engineering News: Industrial Research, 60-OMC-2790, bates
19 labeled TOWOLDMON0047971.

20 143. Attached as **Exhibit 142** is a true and correct copy of the February 9,
21 1970 Monsanto Correspondence of Donald Olson, Functional Fluids Group,
22 enclosing the October 29, 1969 Chemical Week article and Monsanto Customer List,
23 bates labeled MCL000005-MCL000093.

1 144. Attached as **Exhibit 143** is a true and correct copy of the February 18,
2 1970 Monsanto Correspondence of Donald Olson, Functional Fluids Group,
3 enclosing the October 29, 1969 Chemical Week article and Monsanto Customer List,
4 with May 9, 1973 Monsanto Memorandum of P.W. Gann, bates labeled
5 MCL000094-MCL000107.

6 145. Attached as **Exhibit 144** is a true and correct copy of the May 11, 1970
7 Monsanto Correspondence of Donald Olson, Functional Fluids Group, to Mr. Ted
8 Reback, bates labeled MCL000184-MCL000190.

9 146. Attached as **Exhibit 145** is a true and correct copy of Monsanto's
10 Technical Bulletin O/PL-306A, "Aroclor Plasticizers," bates labeled 0290994-
11 0291008 (PCB-ARCH0298272-0298286).

12 147. Attached as **Exhibit 146** is a true and correct copy of Monsanto's
13 August 14, 1970 Correspondence from Walter E. Schalk, Director of Plasticizer
14 Sales, regarding PCB withdrawal from the plasticizer market, with customer list,
15 bates labeled MCL000397-MCL000439.

16 148. Attached as **Exhibit 147** is a true and correct copy of Monsanto's
17 September 25, 1970 Correspondence from Randall Graham, Senior Fluids
18 Specialist, regarding reclamation and disposal, with shipping label and customer list,
19 bates labeled MCL000611-640.

20 149. Attached as **Exhibit 148** is a true and correct copy of Monsanto's
21 Correspondence from David Hall regarding the control of waste, spills, and
22 discharge into streams, bates labeled MCL000691-MCL000696.

1 150. Attached as **Exhibit 149** is a true and correct copy of Monsanto
2 Functional Fluids Bulletin, “How to Keep Your Therminol FR System Leak Free”
3 and “How to Dispose of Therminol FR,” bates labeled 0052010-11 (PCB-
4 ARCH0048779).

5 151. Attached as **Exhibit 150** is a true and correct copy of Monsanto’s
6 “Therminol Conversion Bulletin,” bates labeled 0585959-979 (PCB-
7 ARCH0588885–905).

8 152. Attached as **Exhibit 151** is a true and correct copy of the Monsanto
9 Askarel Inspection and Maintenance Guide, April 1, 1971, bates labeled PCB-
10 ARCH0168693 through PCB-ARCH0168725.

11 153. Attached as **Exhibit 152** is a true and correct copy of the Monsanto
12 Arcolor & Pyroclor Bulk Handling Manual, October 1, 1971, bates labeled PCB-
13 ARCH0277364 through PCB-ARCH0277388.

14 154. Attached as **Exhibit 153** is a true and correct copy of Monsanto
15 Therminol Conversion Bulletin, December 1, 1971, bates labeled PCB-
16 ARCH0247276 – PCB-ARCH0247290.

17 155. Attached as **Exhibit 154** is a true and correct copy of Monsanto Aroclor
18 1242 E1 Bulletin, August 1, 1972, bates labeled PCB-ARCH0163690 through PCB-
19 ARCH016393.

20 156. Attached as **Exhibit 155** is a true and correct copy of the 1972
21 Monsanto Aroclor Bulletin, bates labeled PCB-ARCH0036393 through PCB-
22 ARCH0036396.

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1 157. Attached as **Exhibit 156** is a true and correct copy of the August 3,
2 1973 Monsanto Correspondence from Cumming Paton, Product Manager, Fluids, to
3 Monsanto's Pydraul Customers enclosing a copy of the Federal Register, Food and
4 Drug Administration final order for Polychlorinated Biphenyls: Contamination of
5 Animal Feeds, Foods, and Food Packaging Materials and Availability of Supplement
6 to Environmental Statement on Rulemaking, bates labeled MCL02794 through
7 MCL02960.

8 158. Attached as **Exhibit 157** is a true and correct copy of Monsanto
9 Transformer Askarel Inspection & Maintenance Guide, Bulletin No. IC-FF38,
10 December 1, 1973, bates labeled PCB-ARCH0168665 through PCB-
11 ARCH0168692.

12 159. Attached as **Exhibit 158** is a true and correct copy of the 1975
13 Monsanto Bulletin, "Aroclor 1342", bates labeled PCB-ARCH0163708 through
14 PCB-ARCH0163715.

15 160. Attached as **Exhibit 159** is a true and correct copy of the 1975
16 Monsanto Bulletin, "Aroclor 1342 E1", bates labeled PCB-ARCH0168626 through
17 PCB-ARCH0168633.

18 161. Attached as **Exhibit 160** is a true and correct copy of the 1974
19 American National Standard "Guidelines for handling and disposal of capacitor- and
20 transformer-grade askarels containing polychlorinated biphenyls", American
21 National Standards Institute, Inc., ANSI C107.1-1974, bates labeled PCB-
22 ARCH0255676 through PCB-ARCH0255711.

1 162. Attached as **Exhibit 161** is a true and correct copy of the March 1975
2 Monsanto Bulletin “Transformer Askarel Inspection & Maintenance Guide”,
3 Bulletin No. IC/FF-38-R, bates labeled PCB-ARCH0206370 through PCB-
4 ARCH0206397.

5 163. Attached as **Exhibit 162** is a true and correct copy of the August 1976
6 Monsanto Bulletin “Transformer Askarel Inspection & Maintenance Guide”,
7 Bulletin No. IC/FF-38R-2, bates labeled PCB-ARCH0523916 through PCB-
8 ARCH0523943.

9 164. Attached as **Exhibit 163** is a true and correct copy of Manufacturing
10 Chemists’ Association, Inc. (MCA), 1946, 1949, 1953, 1956, 1961, and 1970. Guide
11 to Precautionary Labeling of Hazardous Chemicals, Manual L-1. MCA, 1961.
12 Recommended Safe Practices and Procedures, Disposal of Hazardous Wastes.
13 Safety Guide SG-9.

14 165. Attached as **Exhibit 164** is a true and correct copy of USEPA,
15 “Frequent Questions About the Polychlorinated Biphenyl (PCB) Guidance
16 Reinterpretation” located at [https://www.epa.gov/pcbs/frequent-questions-about-](https://www.epa.gov/pcbs/frequent-questions-about-polychlorinated-biphenyl-pcb-guidance-reinterpretation)
17 [polychlorinated-biphenyl-pcb-guidance-reinterpretation.](https://www.epa.gov/pcbs/frequent-questions-about-polychlorinated-biphenyl-pcb-guidance-reinterpretation)

18 166. Attached as **Exhibit 165** is a true and correct copy of Correspondence
19 from Pier, A. F., 1972. Monsanto Company, Incineration of Polychlorinated
20 Biphenyls. Review Copy, August 21, bates labeled MONS 0444175 through MONS
21 044183.

22 167. Attached as **Exhibit 166** is a true and correct copy of the expert report
23 of John H. Koon dated November 14, 2019 (“Koon Rpt.”).

1 168. Attached as **Exhibit 167** is a true and correct copy of an article by
2 Oppelt, E. Timothy, titled Incineration of Hazardous Waste: A Critical Review.
3 JAPCA, 37(5): 558-586 (1987).

4 169. Attached as **Exhibit 168** is a true and correct copy of a letter from D.A.
5 Olson to T. Reback, dated May 11, 1970, bates labeled MCL000184 to MCL000190.

6 170. Attached as **Exhibit 169** is a true and correct copy of a letter from W.E.
7 Schalk dated August 14, 1970, bates labeled MCL000440 through MCL000440461.

8 171. Attached as **Exhibit 170** is a true and correct copy of the ANSI National
9 Standard titled "Guidelines for Handling and Disposal of Capacitor- and
10 Transformer-Grade Askarels Containing Polychlorinated Biphenyls", ANSI
11 C107.1-1974, dated January 9, 1974.

12 172. Attached as **Exhibit 171** is a true and correct copy of a USEPA
13 publication titled "PCB Marking and Disposal Regulations Support Document",
14 undated.

15 173. Attached as **Exhibit 172** is a true and correct copy of a letter from J.A.
16 Alley to customers, with attachments, bates labeled MCL003102 through
17 MCL003418.

18 174. Attached as **Exhibit 173** is a true and correct copy of a memo from J.M.
19 Wriston, Jr. to L.L. Dearing, regarding Monthly Incinerator Status Report, dated
20 January 3, 1978, bates labeled PCB-ARCH0450243 through PCB-ARCH0450244

21 175. Attached as **Exhibit 174** is a true and correct copy of a report by D.G.
22 Ackerman and R. Scofield, titled "Guidelines for the Disposal of PCBs and PCB
23
24

1 Items by Thermal Destruction, Industrial Environmental Research Laboratory, US
2 EPA”, EPA-600/S2-81-022, dated July 1981.

3 176. Attached as **Exhibit 175** is a true and correct copy of the State of
4 Washington, Department of Ecology, Implementation and Enforcement Plan for
5 Water Quality Regulations for Surface Waters dated September 1970.

6 177. Attached as **Exhibit 176** is a true and correct copy of the November 10,
7 1972 Letter from John A. Biggs to Honorable Mayor and Members of the Spokane
8 City Council transmitting the Notice of Violation, Docket No. DE 72-186.

9 178. Attached as **Exhibit 177** is a true and correct copy of the expert report
10 of J. Michael Trapp and Joel E. Bowdan, III, dated October 11, 2019 (“Trapp-
11 Bowdan Rpt.”).

12 179. Attached as **Exhibit 178** is a true and correct copy of Plaintiff’s First
13 Supplements to Plaintiff’s Second Amended Objections and Responses to
14 Pharmacia LLC’s First Amended Special Interrogatories.

15 180. Attached as **Exhibit 179** is a true and correct copy of Plaintiff’s Second
16 Supplement to Plaintiff’s Second Amended Objections and Responses to Pharmacia
17 LLC’s First Amended Special Interrogatories.

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CERTIFICATE OF SERVICE

I certify that on January 28, 2020, I caused the foregoing Declaration to be electronically filed with the clerk of the Court using the CM/ECF System which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice.

s/ Melissa Nott Davis

Melissa Nott Davis, MA Bar No. (654546)
(*Pro Hac Vice*)

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